

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on January 30, 2003 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Linda Keim, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HB 298, HB 333, 1/24/2003
Executive Action: HB 142, HB 152, HB 229, HB 249,
HB 272

HEARING ON HB 298

{Tape: 1; Side: A; Approx. Time Counter: 0.6 - 3.8}

Sponsor: REP. CINDY YOUNKIN, HB 28, BOZEMAN

Opening Statement by Sponsor:

REP. CINDY YOUNKIN stated that HB 298 addresses fees on a county level. The present divisions of land that are exempt from subdivision review are numerous and overwhelming. The division being requested is being done for the benefit of the divider, not for the benefit of the county or the public.

Processing the paperwork to create a parcel exempt from subdivision review is necessary to insure that the division is, in fact, one that is exempt from subdivision review. The cost should be borne by the applicant, which is what this bill does.

Concern has been expressed about how high a county might set the fee. She said that if an amendment were made that required any fee to be commensurate with costs up to "x" dollars, that she would consider it to be a friendly amendment. The processing costs would probably not be over \$50.

REP. YOUNKIN said that allowing a county to set a fee to cover costs would enable the counties to manage their budgets and their expenses better, and would be good for the taxpayers too.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 4.0 - 12.0}

Jennifer Madgic, Gallatin County Planning Department (GCPD), said that, for many years, they have provided a review of exemptions such as agriculture, family transfers, mortgage exemptions, and boundary realignments without assessing a fee. GCPD processes about 100 exemption reviews per year. Each review takes 3-5 hours, and some take longer. She said that GCPD accepted the applications, processed them administratively, and reviewed with a Planner for compliance with the applicable zoning district or state statute. She said that final approval comes from the Gallatin County Commission. GCPD proposes charging a reasonable fee, which would be set by their 11-member Citizen Advisory Planning Board and their six-member Planning and Zoning Commission. The County Commission would make the final determination on fees through public input.

Linda Stoll, Montana Association of Planners, said that setting review fees is long overdue, and it would be a good thing to remove this burden from the taxpayers. She suggested clarifying the bill by striking the word "review", which precedes the word "fees" in the underlined sections. She said that many planners were concerned that most exemptions to the Subdivision and Platting Act were not included. They would like the opportunity to review the exemptions further.

Harold Blattie, Assistant Director, Montana Association of Counties (MACO), commented that the word "reasonable" is the same language as the Statute uses for setting review fees, and that fees are regularly reviewed for appropriateness. He said that the Family Member Transfer is frequently utilized to evade the Subdivision and Platting Act. He explained that people transfer a parcel of property to an eligible family member, walk over to the clerk and recorder's office and file a deed to transfer that piece of property. This bill will enable the county to have a little funding that the taxpayers are not subsidizing.

Mona Jamison, Attorney, representing Gallatin County, said that this is a taxpayer fairness bill. She stated that with other subdivisions, the Legislature sets the fee and it is in Statute. As Miss Madgic stated, reviewing the exemptions is usually labor intensive. She said that it is important that when people are receiving a fair service, and they are getting the work of state employees, that we have a reasonable assessment on them. She said that they have spent time examining which are the most labor intensive, and those are set forth in the bill.

Tim Davis, Montana Smart Growth Coalition, said that most of the arguments for this bill have been made. He emphasized that this is not just a Gallatin County bill. He said that hundreds of these exempted divisions of land occur each year, and it costs each of those counties a lot of money.

Jim Kembel, Montana Association Registered Land Surveyors, said that they had no problem with the bill, except for the cap on what is reasonable, which varies from county to county. He stated that they would prefer a cap of about \$50.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 12.5 - 18}

REP. MENDENHALL asked Linda Stoll for some county information on how many of these exemptions have been processed. **Linda Stoll** stated that in Billings and Yellowstone County, there were 20 major subdivisions, 47 minor subdivisions, and 94 exemptions reviewed during 2002. In Madison County, there were six subdivisions and 27 exemptions. There have already been 24 exemptions, and seven subdivisions in Madison County during January 2003. In 2002, Stillwater County processed 50 exemption certificates of survey. They have already seen a 50% increase in certificates of survey during January 2003, and estimate that there will be 75 exemptions this year.

REP. DEVLIN asked why only five of the fourteen possible exemptions were assessed. **REP. YOUNKIN** said that was because those are the five that take the most time. She said that some of the others are rarely requested.

CHAIRMAN NOENNIG asked Mr. Blattie about earlier testimony concerning people evading the Subdivision and Platting Act by using a family exemption, and then recording a deed. He asked if that would imply recording a deed to a third party immediately after they used the family exemption. **Mr. Blattie** replied that he did indeed state that. He commented that they have done nothing wrong; that they have divided the property according to current Montana law under the Family Member Transfer Exemption, and transferred that newly created parcel to an eligible family member, who then sells it to an unrelated third party.

CHAIRMAN NOENNIG said that the law used to provide that if it was done for purposes of evading the Act, that it was not valid. He referred to section one on line 11 of the bill, and said that some of those evasions have been penalized. **Mr. Blattie** said that he had heard those exemptions were being abused and not being penalized.

REP. NOENNIG asked **REP. YOUNKIN** for her opinion on striking the word "review". **REP. YOUNKIN** said that the word would have to be replaced with something else, possibly: "With the processing of an application for a division of land."

Closing by Sponsor:

REP. YOUNKIN closed by stating that the person requesting a subdivision review should pay a fee for processing those papers. She asked for a DO PASS.

HEARING ON HB 333

{Tape: 1; Side: A; Approx. Time Counter: 18.9 - 21.2}

Sponsor: REP. KARL WAITSCHIES, HD 96, PEERLESS

Opening Statement by Sponsor:

REP. WAITSCHIES said that HB 333 would allow local governments to return interest from investments and deposits to a specified fund, rather than depositing the interest in the General Fund. Currently the county road and bridge funds are the only funds that are allowed to do this. He asked for a DO PASS.

Proponents' Testimony:

Richard Dunbar, County Commissioner, Phillips County, said that HB 333 would let funds that are outside of the General Fund retain the interest, and put it back into their own fund. He asked for favorable consideration of the bill.

Daniel Watson, County Commissioner, Rosebud County, said that he is also the Fiscal Officer for MACo. This bill is the mechanism that will allow retention of investment interest by specified funds. He noted that some grants also require that interest earnings may not be deposited into the General Fund.

Harold Blattie, Assistant Director, Montana Association of Counties (MACo), said that this arrangement provides an incentive for saving. He said that levy Funds such as the Weed Fund, the Library Fund, and the Fair Board Fund, are affected. Special Revenue Funds are fee-driven, and would not be affected.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 24.0 - 28.7}

REP. BITNEY referred to Line 23, and asked for clarification of whether depositing the interest in a specified fund was permissive or mandatory. **Harold Blattie** said that the language is permissive, and that doing so is currently prohibited.

CHAIRMAN NOENNIG said that the change stipulates that interest must be credited to the General Fund unless otherwise provided by law, by gift, grant, or donation, or by Sub (2) and Sub (3). He

asked if the substance of the change is to make depositing in a separate fund discretionary. **Harold Blattie** said that some of the language has been added just to be consistent with other areas of Statute. The intent of the bill is in Lines 21 - 24. For example, it would allow a fire district to have the interest on their money, which is on deposit with the county treasurer, returned to them. **CHAIRMAN NOENNIG** asked if that was any fund created or accounted for by the county, city, or town. **Harold Blattie** said that it was money held by the county treasurer. **CHAIRMAN NOENNIG** asked how much money this involved. **Harold Blattie** said that it would be a fairly small amount, probably less than 10% of all the county deposits.

CHAIRMAN NOENNIG asked what effect that would have on the budget problems of the county. **Harold Blattie** said that HB 333 would allow the county commissioners to make that determination, and would serve as negative revenue to the county's general fund in subsequent years. **CHAIRMAN NOENNIG** clarified that current Statute prevents the county from doing that now, because the interest has to go into the General Fund, and the interest would have to be reallocated. If local governments want to give an incentive to a particular department to save department money, that department will get the money back, and won't have to ask for it out of the General Fund. **Harold Blattie** answered affirmatively.

Closing by Sponsor:

REP. WAITSCHES confirmed that this is a basic earmarking of the interest that is being drawn. He explained that he is on the Weed Board, and money is usually expended May through August. He said that because the fiscal year ends June 30, that all the money is not used up. HB 333 would allow counties to return accumulated interest to the Weed District as an incentive.

PRE-HEARING on HB 339

CHAIRMAN NOENNIG asked the Committee for permission to hold a Pre-Hearing on HB 339, so that Phillips' County Commissioner, Richard Dunbar, would not have to return to give his testimony on Tuesday, when the regular Hearing is scheduled. No one objected.

{Tape: 1; Side: B; Approx. Time Counter: 0.1 - 3.6}

Informational Testimony:

Richard Dunbar said HB 339 clarifies which counties must have county auditors and which counties may have county auditors. It would allow commissioners in certain counties the discretionary

authority to provide for an elected or appointed county auditor. Currently a county with less than 15,000 population is not allowed to create a county auditor position. Mr. Dunbar said that they would like to have the authority to create the office of county auditor, either as a full-time, or a part-time position, or in combination with another position. He said that one of the reasons for creation of this position is that the county auditor's authority lies in the clerk and recorder's office. He explained that in small counties, the clerk and recorder has the authority to oversee everything, including being in charge of elections. He said that with all the duties that the clerk and recorders have, local governments want to be able to put county auditors on top.

REP. BECKER asked Mr. Dunbar if the county auditor's position would be an elected position. **Mr. Dunbar** said that the county auditor is an elected position.

CHAIRMAN NOENNIG asked Mr. Dunbar if he had any written testimony for the Committee. **Mr. Dunbar** said that the county would send written testimony that would be available for Tuesday's Hearing.

EXECUTIVE ACTION ON HB 142

{Tape: 1; Side: B; Approx. Time Counter: 4.2 - 14.3}

Motion: **REP. DEVLIN** moved that **HB 142 DO PASS.**

Motion: **REP. DEVLIN** moved that **HB 142 BE AMENDED.**

EXHIBIT(loh20a01) 14201

Legislative Staffer Connie Erickson explained that the Amendment states that local governments will be consulted if they are directly impacted by a project. She said that the Amendment also defines local government.

Vote: Motion carried unanimously.

Motion: **REP. DEVLIN** moved that **HB 142 BE FURTHER AMENDED.**

EXHIBIT(loh20a02) 14202

Legislative Staffer Connie Erickson explained that the Amendment retains current law and removes the language "local government" and "agency" from subsection three on page one because of concern that local government could hold up the project.

Discussion:

REP. DEVLIN explained that industry had a concern about that language. Industry viewed subsection three as referring to the recommendations of a technical state or federal agency. For example, with water quality problems, they would talk to the Department of Environmental Quality (DEQ). **REP. DEVLIN** said that dropping the reference to local government did not change the intent of the bill.

CHAIRMAN NOENNIG asked why references to "local government" and "agency" remain in Subsection (2). **REP. DEVLIN** said that putting local government in Subsection (2) is not a change in current policy, because they have not involved local governments; and they have not been directed to. By leaving local government in this area, the agency conducting the Environmental Review has a statutory obligation to notify the local government and invite their participation.

CHAIRMAN NOENNIG asked if Section 75-1-103 is part of the Montana Environmental Protection Act (MEPA); and if Section 75-1-201 says that they don't affect the statutory obligation to comply, coordinate, and consult. **REP. DEVLIN** said that, in referring to both the Amendment and the Bill, the agency in charge is statutorily required to notify the local government jurisdiction that will be directly impacted. Notification must be made during the scoping part of any environmental project.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: **REP. DEVLIN** moved that **HB 142 DO PASS AS AMENDED**. Motion carried unanimously by voice vote, with **REP. RASER**, **REP. MAEDJE**, **REP. MORGAN**, and **REP. OLSON** voting absentee.

EXECUTIVE ACTION ON HB 152

{Tape: 1; Side: B; Approx. Time Counter: 14.3 - 15.9}

Motion/Vote: **REP. MENDENHALL** moved that **HB 152 DO PASS**. Motion carried unanimously by voice vote, with **REP. RASER**, **REP. MAEDJE**, **REP. MORGAN**, and **REP. OLSON** voting absentee.

EXECUTIVE ACTION ON HB 229

{Tape: 1; Side: B; Approx. Time Counter: 16.5 - 23.7}

Motion: **REP. LAWSON** moved that **HB 229 DO PASS**.

Discussion:

REP. DEVLIN spoke against HB 229, and said that many times there are some savings up front, but over the long-term, it usually costs more money. He explained that of two counties in his jurisdiction, Prairie County is able to provide services such as road maintenance at a lower cost than Custer County, which is the larger county. County pay scales are set by class of county, and people think that if they can eliminate one board of commissioners, that there will be some cost savings. In actuality, when the property base is moved up, the class of the county is raised, and the pay scale is raised for everyone in that county. He said that counties can combine on their own if they determine it to be necessary.

REP. CARNEY spoke against HB 229 and said that even though she is not in a small county, Flathead County could take them over and take all their money.

REP. LAWSON reminded the Committee that they are not making any decisions with this bill. If HB 229 passes, it would just put this proposal on the ballot for the voters to decide.

REP. BITNEY asked if this is a legislative referendum. **Connie Erickson** said that it was, and that most referendums come out in this format.

REP. MENDENHALL said that he also opposed this bill because he felt that the county seat serves as a cultural center for the county. He said that there is already a drain of the population in rural counties, and this would only exacerbate that problem.

REP. LAWSON pointed out that we all want our county seat, our hospital and our schools close to home. He said that is fine, as long as everyone is willing to pay for those things, but he felt that those decisions needed to be made by the voters.

REP. DEVLIN said that in his county they are willing to pay the extra cost. He said that the mechanism is in place for them to disband their county and consolidate, but that it is currently their decision to remain an independent county.

REP. JACOBSON said that there is probably no county that will ever do this, as this is an effort to self-destruct. He said that HB 249 overrides local control.

Substitute Motion/Vote: **REP. FORRESTER** made a substitute motion that **HB 229 BE TABLED. Substitute motion carried 14-2 with REPS. BECKER and LAWSON voting no** on a voice vote.

EXECUTIVE ACTION ON HB 249

{Tape: 1; Side: B; Approx. Time Counter: 25.7 - 29}

Motion: REP. LAWSON moved that HB249 DO PASS.

Discussion:

Legislative Staffer Connie Erickson explained several sections of the bill that cover development of the program by Fish, Wildlife, and Parks (FWP), and the rules for removing game animals. She explained that once a city adopts an ordinance, the requirement stays in the law; however, the funding for this bill terminates on March 1, 2006.

{Tape: 2; Side: A; Approx. Time Counter: 0.0 - 15.3}

CHAIRMAN NOENNIG asked if Ms. Erickson had discussed funding with **REP. BARRETT**. **Connie Erickson** said that she spoke with the person who drafted the bill and was told that was the way that **REP. BARRETT** wanted the bill. The idea would be that after 2006, FWP would have to pay for this removal program out of its general operating budget.

REP. CARNEY asked if a city agency could tell a state agency what to do, just because it was written in the law. **Connie Erickson** said yes, that is the purpose of Section Two, where the section covering powers denied was amended.

CHAIRMAN NOENNIG said that they are putting in Statute that if a city adopts an ordinance, the agency has to adopt the rules and have the funding, in that sequence. All of this can be controlled by Statute, because they are all either state agencies or political subdivisions.

REP. BECKER asked if the funding comes out of the General Fund. **Connie Erickson** said that the current funding comes out of the Habitat Acquisition Fund; page eight, lines 16-18.

CHAIRMAN NOENNIG asked what happens in 2006, when the Statute says that if they adopt the ordinance, that the Department has to make the rules, and there is no funding mechanism. **Connie Erickson** said that the Department will have to provide the funding, because they are required statutorily to provide the rules and adopt the program.

CHAIRMAN NOENNIG asked if the Department supported this bill. **Connie Erickson** said that the Department testified as an

Informational Witness, that Mr. Peterman felt that the use of Habitat Acquisition Funds was inappropriate, and that funding should come from the General License Fund. **CHAIRMAN NOENNIG** stated that funds will come from the General License Fund when the bill sunsets.

REP. CARNEY said that the animals are in town because we are having a drought. She said that she was not in favor of taking money that was supposed to be used to preserve habitat, and using that money to get rid of the deer. **REP. CARNEY** said that she did not disagree with the purpose of the bill.

REP. MENDENHALL said that he supports this bill. He also said that the Committee needs a true count of vehicle accidents in town and the resulting cost. There are record numbers of new wildlife in the state, and we heard from many people who said that this was an issue. Very few people spoke against the bill. He asked for a DO PASS.

REP. HAWK said that he opposed the bill. He said that he did not see why FWP should get involved, as they don't know how they are going to get rid of the deer. One of the reasons deer come into town is because they are fed and they are attracted by people's gardens. He said he did not think the bill was needed.

REP. DEVLIN said that he supported the bill. He said that this was an unusual situation. In the eyes of the law, the wildlife are owned by the people of Montana and FWP is charged with the management of the people's wildlife. All cities and towns can do when they have a complaint, is to notify FWP that there is a problem. This bill directs FWP that they are the agency in charge of wildlife, and to take care of their responsibilities.

REP. CARNEY asked how FWP will remove the wildlife.

REP. JACOBSON said that he asked that question during the Hearing. He stated that Mr. Peterman did not have a clear picture of how it would be handled, and that using nets or tranquilizers has been considered.

REP. LASLOVICH said that he is also having trouble with the mechanics of the whole thing. Once the wildlife is removed, there is no guarantee that the wildlife won't come back.

REP. MENDENHALL said that this bill allows local government to team-up with FWP, and that is a good thing.

REP. LAWSON said that if there were a way to do it without spending hunting license fees, he might feel differently.

REP. MENDENHALL responded that when local governments opt to take advantage of what this law allows, cities and towns will have to expend their resources and share in the cost.

REP. DEVLIN referred to Section 7 on Page 8, and said that the Urban Wildlife Program will be financed by a portion of non-resident fees that are now dedicated solely to habitat purchases. "Funding for block management comes from a different source."

REP. BECKER asked for clarification, and said that the way the bill reads is that FWP comes up with the funding. **REP. DEVLIN** said that removing urban wildlife would be a coordinated effort between city government and FWP. He said that it depends on how the plan is written, and that if additional funding is needed, that it is possible cities would help.

CHAIRMAN NOENNIG explained that the process begins on Page 4, Line 24, with the consolidated government adopting an ordinance. The rule making authority is with FWP, and that is covered on the bottom of Page six. He said that the money is not described anywhere, except for the funding that comes from non-resident licenses. He explained that **REP. MENDENHALL** is saying that if the city adopts the ordinance, that the only way that the city can get FWP to follow the city's rules may be to contribute some financing or other resources.

Vote: Motion failed 8-8 with REPS. BITNEY, DEVLIN, JACOBSON, MAEDJE, MORGAN, OLSON, MENDENHALL, and NOENNIG voting aye on a roll call vote.

EXECUTIVE ACTION ON HB 272

{Tape: 2; Side: A; Approx. Time Counter: 21.6 - 30}

Motion: **REP. JACOBSON** moved that **HB 272 DO PASS**.

Discussion:

REP. DEVLIN said that payments have been made to local governments that are affected by HB 124, the reimbursement bill from last session. In one case, a mistake was made, and some counties were overpaid. A few of the counties did not pay it back, and the state said that they would deduct it from the county's Entitlement Share because it was paid in error. He said that if the county owed a debt to the state, that the state should deduct it. He said that he would vote against this bill.

CHAIRMAN NOENNIG said that the Statute says that the local government shall remit the overpaid amount to the department, and

that testimony indicated that the bill was not intended to deal with that situation. **CHAIRMAN NOENNIG** asked **REP. DEVLIN** if his point was that the bill should state that the local government shall remit the overpaid amount to the state, and **REP. DEVLIN** answered affirmatively.

REP. DEVLIN said that overpayment comes back to who should hold the money, if the matter is in dispute. This comes down to a fairness issue that if one party owes money, and the money is coming the other way, they should deduct the amount.

REP. HAWK asked for an example of a debt owed by a local government to a state agency.

REP. DEVLIN said that in HB 272, that the state cannot withhold a payment due to the local government, even if there is a disputed amount involved. He gave an example where the total amount dispersed was correct, but the ratio was wrong, and the county had to borrow money until they collected the correct amount.

CHAIRMAN NOENNIG asked Connie Erickson about Section 17-4-105 on Pages 7-9. He said that it appears to apply between state agencies rather than local governments. He asked if there is anything else in Chapter 4, Part 1, of Title 17 that would cover an offset.

Connie Erickson said that Section 17-4-105 just gives the authority to a state agency to collect any debts, or to do offsets. She said that she did not think that there was anything else in Section 17 that specifically covers local governments.

CHAIRMAN NOENNIG said that the only offset that he has found is on Page 8.

Connie Erickson commented that she found something helpful that is not in the bill. She said that Section 17-4-101 contains definitions, and the definition of agency includes all offices, departments, divisions, boards, commissions, councils, committees, etc.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 25.7}

She said that local governments are considered to be political subdivisions of the state, so the term "agency" that appears in Section 17-4-105, is synonymous with local governments.

CHAIRMAN NOENNIG asked about Line 30 on Page 7: "The department may not exercise this offset until the debtor has first been notified by the department and been given an opportunity for

hearing pursuant to Section 15-1-211." Does that mean that without this bill, when the state proposes to offset something against the county government, that the state has to give notice and opportunity of hearing before the state can offset the money?

Connie Erickson said "Yes, that is what it means." She said that Section 6 specifically states that local government debt cannot be offset against a payment due under Section 15-1-121, which is the Entitlement Share bill. She said that the state could probably offset something else, however.

REP. MAEDJE said that he understood that the state could not offset through an entitlement, until the other mechanism in Statute to decide the validity of the debt had been exercised.

CHAIRMAN NOENNIG said that currently when there is an Entitlement payment coming from state to local government, and local government owes a different amount to a state agency, there is a question about offset. He said that the state gets to decide whether something is owed by a local government, and that can't be done without giving notice and opportunity for a hearing.

REP. MAEDJE said that he thought the bill's intent was that until a payment issue is resolved, that the money can not be taken out of other future payments. **CHAIRMAN NOENNIG** agreed that if the overpayment is a debt owed to the state, regardless of the reason, that there could be an offset. The Statute specifically describes an overpayment on Lines 18-19, Page 7, and says the money will be remitted to the department.

REP. BECKER asked **CHAIRMAN NOENNIG** if there would be any objection to asking Harold Blattie about this situation, and was given permission.

REP. BECKER asked Harold Blattie if he would explain offsets.

Harold Blattie said that the situation that brought this bill about was due to increased administrative costs being assessed by the Department of Health and Human Services (DHHS) in 1990 after county budgets had already been set. He said that those amounts have been in dispute ever since, and there are two bills before the Legislature to specifically deal with that. This bill is focused to the Entitlement Share and says that if there is a debt owed to the state, that the Entitlement Share can not be offset. It is the unrelated debts that they are concerned about. He said, "If there is an offset to the Entitlement, that growth factor is applied throughout, but if the Entitlement is reduced in any specific year, do you start tinkering with the growth dollars in the out years?"

CHAIRMAN NOENNIG responded. The Entitlement Share is the same in theory even though it is offset. He said that he did not understand that it would change the amount of the Entitlement Share for growth factor purposes. **Harold Blattie** said that he needed to have the Entitlement Share Statute to clarify whether the growth factor is applied to the base each year, with the growth dollars being added separately, or if the base is grown in one year, and that amount becomes the subsequent base that the growth factor is applied to the next year.

CHAIRMAN NOENNIG said that his theory is that it is not the amount of dollars that make up the share. If a growth factor is added to the previous share, it does not mean that your share was reduced. You are entitled to a certain amount, and the only reason that you did not get it is because you theoretically got it and paid it back with an offset. **Harold Blattie** said that he hoped that was correct.

CHAIRMAN NOENNIG said that he had not heard about the administrative cost dispute and asked for more information. **Harold Blattie** explained that prior to 2000, counties had been paying 9% of the administrative costs for DHHS functions in the county. After budgets had been set in the summer of 2000, the prior year assessment was adjusted from 9% to 14% by DHHS, and they proposed to collect it under the debt collection statute. He said that it has been in dispute ever since, but most of the counties have reluctantly remitted the amount to DHHS because they were threatened.

CHAIRMAN NOENNIG asked if DHHS has the statutory authority to increase the share to the counties. **Harold Blattie** said that he could not answer that question. **CHAIRMAN NOENNIG** asked if the notification and hearing procedure was followed. **Harold Blattie** said no, that the counties received a letter notifying them of the increased assessment, and that they were not given an opportunity for a hearing under section 15-1-211. **CHAIRMAN NOENNIG** said that he would assume that, unless the provision does not apply, that MACo has the basis for a claim that the money was not properly offset. **Harold Blattie** said that the counties that had not paid were notified by letter that the debt would be offset against subsequent payments under authority of Title 17.

REP. DEVLIN asked Harold Blattie if he meant the nine mill assessment when he said nine percent. **Harold Blattie** said that there are "assumed counties" and "non-assumed counties". The assumed counties collected the nine mills against the taxable value in their county and remitted that amount to the state. The non-assumed counties, which were those counties that levy and were able to run their operations on less than the nine mills,

were the counties that were involved with the increase in the administrative cost.

CHAIRMAN NOENNIG asked Harold Blattie what an assumed county is. **Harold Blattie** said that assumed counties were not able to keep up with the demands for public assistance, and agreements were made with those counties to turn over the nine mills to the state. In exchange, the state will assume all of the responsibilities for those programs.

REP. DEVLIN said that Prairie County, a non-assumed county, collected nine mills and got a letter that said they owed more. He asked whether it was mills or percent. **Harold Blattie** said that it was a percent of the total cost of administering the public assistance programs in Prairie County, that it was not mills. The county taxpayers were responsible for nine percent.

REP. MAEDJE summarized the county activity previously reviewed, and **Harold Blattie** clarified that the department only threatened to offset the money that was owed, but not specifically the Entitlement Share. **REP. MAEDJE** asked if this bill is intended to take care of the Entitlement monies that are owed to the county. **Harold Blattie** said that this bill is intended to specifically insulate the Entitlement Share from those disputes.

REP. MAEDJE asked if the bill was designed to take care of the problem of the dispute. **Harold Blattie** said that it insulates the Entitlement Share only, that it does nothing to resolve the ongoing dispute. **REP. MAEDJE** asked if it was true that while the dispute is ongoing, the department can't claim that it is going to offset these Entitlements, because it may turn out that they aren't allowed to collect that money in the first place. **Harold Blattie** said that if the bill passes, he understood that they would not be able to offset those disputed amounts.

REP. LAWSON asked **CHAIRMAN NOENNIG** for his opinion whether something in the past could be affected without a retroactive applicability clause. **CHAIRMAN NOENNIG** said that he did not think that something in the past would be affected. **Connie Erickson** said that she agreed, because the counties have only threatened, and the offset has not actually taken place. **CHAIRMAN NOENNIG** commented that the legitimacy of the administrative charge is one issue, the second question is, "Can the Entitlement Share be offset, and have the litigation take place later." He said that if the money is already paid, there should be no effect, but as long as the issue has not been resolved, litigation can be done in the future.

CHAIRMAN NOENNIG explained that HB 272 insulates the Entitlement Share from offsets of any basis, and it insulates the Entitlement Share from legitimate debts being offset if they haven't been paid. He said that there is a procedure already established to give an objection in a hearing if it is not a legitimate debt.

REP. JACOBSON commented that this bill addresses a small component of trust between the counties and the state that goes back to the commitment that the Legislature made with HB 124.

CHAIRMAN NOENNIG said that **REP. JACOBSON** had a good point, and that the Legislature did make a commitment to the counties and the cities. He said that he would reconsider.

REP. MAEDJE said that he would support the bill. "At least the counties are protected if the amount owed to them is in dispute, and county Entitlements are being paid."

Vote: Motion carried 13-3 with REPS. DEVLIN, LAWSON, and OLSON voting no, on a roll call vote.

ADJOURNMENT

Adjournment: 4:55 P.M.

REP. MARK NOENNIG, Chairman

LINDA KEIM, Secretary

MN/LK

EXHIBIT (loh20aad)